



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 199-00

21 April 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C.1552

Encl: (1) DD Form 149
(2) Case Summary
(3) Subject's Naval Record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy, applied to this Board requesting, in effect, that his reenlistment code be changed.

2. The Board, consisting of Messrs. Leeman, Silberman, and Geisler reviewed Petitioner's allegations of error and injustice on 12 April 2000, and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that Petitioner's application to the Board was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner reenlisted in the Navy on 22 March 1995 for four years as an RM3 (E-4). At the time of his reenlistment, he had completed nearly four years of prior active service.

d. On 2 October 1995, Petitioner was counseled for his second failure of a semi-annual physical readiness test (PRT) due to lack of physical conditioning.

e. On 20 March 1996, Petitioner was notified that administrative separation was being considered due to failure to meet prescribed physical readiness standards due to failure of run portion of the PRT during the period from 15 February to 30 June 1994 and 20 October 1995, and failure of curl-ups, push-ups, and the run portion of the 11 March 1996 PRT. Petitioner was advised of his procedural rights, declined to consult with counsel, and waived the right to have his case reviewed by the general court-martial convening authority.

f. Petitioner was honorably discharged on 1 May 1996 by reason of "Physical Standards" and assigned an RE-4 reenlistment code. Petitioner had no disciplinary actions during his two periods of service totalling more than five years, and his overall performance was above average.

g. Regulations authorize the assignment of an RE-3F or RE-4 reenlistment code to individuals who are discharged by reason of "physical standards." An RE-3F reenlistment code means an individual was separated due to failure of the PRT. This code may be waived by recruiting officials if an individual can show that the disqualifying factor no longer exists. An RE-4 reenlistment code means the individual is ineligible for reenlistment without prior approval from the Commander, Navy Personnel Command.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board notes Petitioner's overall performance was above average and he had no disciplinary actions during two periods of service of more than five years. The Board does not believe such service warrants the assignment of the most restrictive RE-4 reenlistment code. The Board concludes that it would appropriate and just to change the reenlistment code to RE-3F to correspond with the reason for which he was discharged.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by changing the RE-4 reenlistment code, assigned on 1 May 1996, to RE-3F.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross references being made a part of Petitioner's naval record.

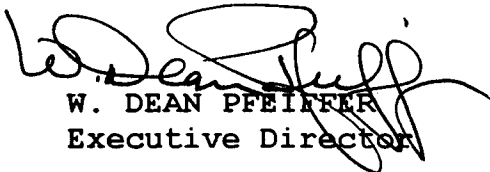
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6 (e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6 (e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director